
(2007) 07 AHC CK 0022
In the Allahabad High Court

P.K. Kalia	Vs	APPELLANT
Canara Bank Ltd. and Another		RESPONDENT

Date of Decision : 06-07-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 7 AWC 6736 : (2007) 115 FLR 113

Hon'ble Judges : Sudhir Agarwal, J;Anjani Kumar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Anjani Kumar and Sudhir Agarwal, JJ.—The petitioner by means of present writ petition under Article 226 of the Constitution of India has prayed for the following reliefs:

(i) to issue a suitable writ, order or direction commanding the respondents to bring up the records of the case and get the orders dated 7.5.1991, 16.4.1991 and 3.4.1991 (Annexures-17, 15 and 14) and the appellate order dated 3.5.1989 (Annexure 10) to the extent two punishments have been given to the petitioner and the order of dismissal dated 29.1.1988 (Annexure 9) quashed.

(ii) to issue a writ in the nature of mandamus or any other writ, direction for order commanding the respondents to make any recovery from the pay of the petitioner in pursuance of the aforesaid orders.

(iii) to issue any other writ, order or direction or grant such other and further reliefs as may be deemed fit and proper on the facts and circumstances of the case and to order for costs.

2. The brief facts giving rise to the present dispute are that at the relevant time the petitioner was working as Branch Manager and was posted at Modinagar Branch of the Canara Bank (hereinafter referred to as "Bank"), when a charge-sheet dated 28th March, 1984 (Annexure-"2" to the writ petition) was served

upon the petitioner. On 9th December, 1986 Sri U.K. Rao was appointed as inquiry officer and it was informed by letter dated 9th January, 1987 that enquiry will continue against the petitioner. The petitioner submitted its reply on 13th February, 1987 to the charge-sheet denying the charges levelled therein. The inquiry officer conducted inquiry and submitted inquiry report on 9th January, 1988 proposing punishment of dismissal from service. The respondents vide letter dated 29th January, 1988 communicated the punishment of dismissal to the petitioner. The petitioner thereafter preferred an appeal against the order of dismissal before the appellate authority. The appellate authority vide order dated 3rd May, 1989 decided the appeal and reduced punishment of dismissal from service to reduction to the lower post of Officer in Junior Management grade Scale-1 and fixed pay at Rs. 2,085/- per month, and recovery of money as per Regulation 4(d) of the Canara Bank Officer Employees' (Discipline and Appeal) Regulations, 1976 (hereinafter referred to as 1976 Regulation). Aggrieved by the order of the appellate authority, the petitioner preferred a representation/review to the Chairman of the Bank on 4th December, 1989, but the aforesaid review was dismissed by the concerned respondent on 28th December, 1989. The petitioner thereafter received a letter for recovery for a sum of Rs. 34,442.41. It is against the aforesaid orders and recovery, the petitioner preferred the present writ petition.

3. We have heard Sri K.P. Agrawal, learned Senior Counsel appearing on behalf of the petitioner and learned Counsel for the respondents. Sri Agrawal sought to rely the charges levelled against the petitioner in the charge-sheet, which has been annexed as Annexure-"2" to the writ petition dated 28th March, 1984, the following charges have been levelled against the petitioner, which reads as under:

- (i) Deposits and advance figures declined during his deficiency.
- (ii) Unauthorised advance by way of bills purchase/T.O.D. Work made.
- (iii) Beside disbursement supervision of all category of advance was not effective.
- (iv) Statement of Stock hypothecated to the bank were not obtained. (v) Documents were not perfect in many cases.
- (vi) The branch work was in arrears.
- (vii) Previous inspection, observations were not rectified.
- (viii) Made unauthorised appointment of 4-5, persons with this regard to H.O. Instructions.

4. In support of his contention, Sri Agrawal submitted that from the perusal of the charges levelled in the charge-sheet against the petitioner, it is apparent that the charges are wholly vague and were not specified and further that the charges do not constitute any misconduct for the petitioner may be penalised. In these circumstances, the: orders passed against the petitioner deserve to be quashed and he is entitled to be reinstated in service with all consequential benefits. A

perusal of charge No. 1 demonstrates that during petitioner's tenure as Branch Manager of the Bank, the deposits in the Bank which stood at Rs. 81.45 lacs as on 31st December, 1981 has declined to Rs. 56.97 lacs as on the date of inspection, which is the basis of the charge-sheet. Sri Agrawal further submitted that needless to say that the reduction of the deposit in any way has nothing to do with the petitioner's performance as Branch Manager, as under no provision he can stop depositors to withdraw their amount so deposited. That apart thus this cannot be said to be a misconduct for which the petitioner may be penalised. The next charge states that likewise advances of the Branch which stood at Rs. 29.18 lacs as on 31st December, 1981 decline to Rs. 8.86 lacs. Mr. Kalia, the petitioner allowed to happen this when he knows well that the deposit mobilization and making of proper advances are the main functions of the Manager. This again, according to Sri Agrawal, cannot amount, to misconduct for the petitioner may be penalised. With regard to rest of the charges, Sri Agrawal submitted that they are only vague charges without any details, dates and advances of the persons concern etc. Sri Agrawal therefore submitted that in view of the law laid down by the Apex Court in The Government of Andhra Pradesh and Others Vs. A. Venkata Rayudu, wherein the Apex Court has ruled in paragraph 9, which reads as under:

9. We respectfully agree with the view taken by the High Court. It is a settled principle of natural justice that if any material is sought to be used in an enquiry, then copies of that material should be supplied to the party against whom such enquiry is held. In Charge 1, what is mentioned is that the respondent violated the orders issued by the Government. However, no details of these orders have been mentioned in Charge 1. It is well settled that a charge-sheet should not be vague but should be specific. The authority should have mentioned the date of the G.O. which is said to have been violated by the respondent, the number of that G.O. etc. but that was not done. Copies of the said G.O's. or directions of the Government were not even placed before the enquiry officer. Hence, Charge 1 was not specific and hence no finding of guilt can be fixed on the basis of that charge. Moreover, as the High Court has found, the respondent only renewed the deposit already made by his predecessors. Hence, we are of the opinion that the respondent cannot be found guilty for the offence charged.

5. Herein in the present case also, as would be clear from the charge-sheet "In almost all categories of advances post disbursement supervision has also not been found effective. Statements of Stocks hypothecated to the Bank have not been received from any of the borrowers. The branch has also never perused the performance in this regard. The monthly instalments have not been deducted from the salaries of the staff members to adjust their loan amounts and in some cases, the amount due has exceeded the sanctioned limit. There has been found no system in the branch to adjust the loans given against the security of FDRs on the date of the maturity thereof. In many cases, documents were incompletely filled in and the guarantees had not been obtained on proper non-judicial stamp paper. In some cases, promissory notes were found to have been obtained

without affixing proper revenue stamps thereon."

6. Having heard learned Counsel appearing on behalf of the parties and having gone through the charge-sheet as well as the orders impugned in the present writ petition, it reveals that the charges are wholly vague, which were not supplied with specific details as were required to be submitted while levelling the charge against an employee. In these circumstances, to us it appears that the charge-sheet being vague, no enquiry could have been held on the basis of the said charges, which are neither specific, not details were supplied. This definitely resulted into denial of the effective defence of the petitioner thereby violation of principles of natural justice. Apart from this, from the principles of the law laid down in the case of Government of A.P. (supra) the charges should be specified and clear. In this view of the matter, without going into further points, we find that the orders impugned in the present writ petition deserve to be quashed by this Court.

In the result, the writ petition succeeds and is allowed. The orders dated 29th January, 1988, 3rd May, 1989, 3rd April, 1991, 26th April, 1991 and 7th May, 1991 are quashed.